

SUMMARY OF THE MEDIATION PROCESS

Everyone whose decision is necessary for settlement must participate in the mediation sessions--preferably in person, although telephone participation may be possible as a last resort. See ADR LR 6-9 for the parties who are required to attend.

At least 10 days before the first mediation session, each party submits a succinct written summary of the dispute, along with any written materials that the party feels may assist in preparing for the mediation. These materials may include, e.g., contracts, investigative or medical reports, and court pleadings. These materials should also be exchanged between the parties. If a party wishes to submit material to be held in confidence by the Mediator, *each page* to be held in confidence should be clearly marked "Confidential."

At the outset of the mediation session, the Mediator usually will ask each party, or the party's attorney, to state its respective position to her, usually in the presence of the other party or parties. This statement should include all of the issues which the party believes to be in dispute and interest that party wants to address in the mediation. After all parties have stated the issues and interests as they perceive them, the Mediator will conduct discussions in an effort to reach agreement.

If joint discussions do not appear to be productive, or if a joint session appears problematic, the Mediator will convene separate sessions ("caucuses") with each party. Parties in caucuses will share in confidence with the Mediator ideas which may lead toward settlement. The Mediator will assist the parties in exploring the strengths and weaknesses of the case. If clarification of an issue is necessary, the Mediator may call the parties into a joint session. The process of caucuses and joint sessions will continue until it appears that a basis for settlement exists or that mediation will no longer be productive. If the parties are able to reach agreement, the parties will reduce the agreement to writing.

SUGGESTED GROUND RULES

All parties will have a full and equal opportunity to speak up on every issue presented for discussion. There is no need to rush or interrupt.

You are encouraged to ask genuine "questions of clarification." Please avoid asking "questions of attack."

Use each other's names, not the pronouns "he" or "she" or "it."

Avoid profanity, insults, and threats.

Speak for yourself (or your party) only. Particularly, do not try to characterize what the other party's intentions or motivations are. Instead, speak to the effect of the other party's actions on your interests.

Work for the agreement that you perceive to be the most constructive and fairest.

Make appeals and attempts to convince to each other, not to the mediator.

If something is not working for you, speak up. Articulate the nature of the problem and, if you can, suggest a solution.

Try to avoid establishing hard positions. Instead, express yourself in terms of your personal interests, positive intentions, and the outcomes you would like to create.